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1946

File No. B. Prevention of Cruelty to Animals/46

Legal Department

B BRANCH

P 17(c)/1946

Subject:— A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay. The Bombay District Police Act, 1890 and the City of Bombay Police Act, 1902

& A Bill No. VIII of 1946.

Bom. Act No. ~~XXVIII~~ of 1946.

File No B- Prevention of Cruelty to Animals/46

Gen. 194 e.

485-B

Office of the R.L.A.

The draft Bill at page 17/21 ante has been amended to as to show that the Governor of Bombay has made the Act in virtue of the proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935.

2. Clause 5 has been added to the Bill (p. 21) with a view to making the offences under section 3A and 6 C cognizable in Greater Bombay as desired by H.D.

3. The subject-matter of the Bill falls under entry 22 in List III and entry 3 in List II in the Seventh Schedule to the Government of India Act, 1935, As the provisions of clause 3 are repugnant to the provisions of section 6 of the Prevention of Cruelty to Animals Act, 1890, which is an existing Indian law relating to entry 22 in the said List III, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. The Home Department will no doubt attach a suitable Statement to the Bill.

Id/- P.M.M. 11/2/46.
Remembrancer of Legal Affairs.
U.R.to H.D.,No.1185,dt.22th February 1946.

Legal Department.

The Bill on pages 55 to 59 requires to be amended as shown on page 55 ante and slightly amended as shown at pages 57 and 59 ante. The Home Department is therefore requested to get the Bill along with the S.O.R. printed (since the cyclostyled copies with H.D. will have to be similarly amended) after getting the signature of H.M.(H.D.) below the Statement of Objects and Reasons. Before striking out copies the Press should be requested to show the proof of the Bill to this Department. The papers should then be sent to this Department for further action with 20 copies of the Bill.

2. The Home Department has directed that the Bill should be translated inter alia into Kanarese and Urdu. Bills are translated into Kannada and Hindustani (in Devnagari and Urdu scripts). The Bill will be translated accordingly, The H.D. may confirm this.

3. Paragraph 5 of H.D. note on p.71.- After the Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules, the necessary notice regarding the

introduction of the Bill and going through with all tthe three readings in the next Session may be given to the Secretary to the Bombay Legislative Assembly (it is presumed the Bill will be introduced in the Assembly). The requisite draft of notice will be furnished to the H.D. in due course.

4. The Bill requires the previous sanction of the Governor under section 108(2)(ii) of the Government of India Act, 1935, since clause 5 of the Bill seeks to amend section 33 of the City of Bombay Police Act, 1902. The Home Department will no doubt obtain the necessary sanction as required under Instruction 26(2) of the Instructions issued under the Rules of Business. This may, however, be done after the Bill is published as aforesaid.

P.N.M.
30/5/46.

O.C.

for Secretary to Government.

HU.R. to H.D. No. 4080 dated the 31th May, 1946.

MM

17/7-

Legal Department.

The Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, having been published in the Bombay Government Gazette, today, these papers are returned to the Home Department for submitting them to the Minister for Home and Revenue for his use at the time of introducing the Bill.

2. It is bequested that a notice as in the appended draft may be given to the Secretary to the Bombay Legislative Assembly.

3. The Bill requires the previous sanction of the Governor under section 108(2)(ii) of the Government of India Act, 1935, since clause 5 of the Bill seeks to amend section 51A of the Bombay District Police Act, 1890, and clause 6 of the Bill seeks to amend section 33 of the City of Bombay Police Act, 1902. A draft for obtaining the necessary sanction is the attached herewith.

Sd/-

13-7

O.C.

Assistant Secretary to Government.

U.R. to H.D. No.207-1 dated the 13th July 1946.

MM

17/7-

The Bill to amend the Prevention of Cruelty of Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, requires my sanction under section 108(2)(ii) of the Government of India Act, 1935, which I hereby accord.

GOVERNOR OF BOMBAY.

MM

17/7-

No. G.S. 3132
Office of the Governor's Secretary
Government House

From

D.Symington, Esquire, CIE.ICS.
Secretary to the Governor of Bombay

To

The Secretary to the Bombay Legislative Assembly/Council

Ganeshkhind, 1st October 1946 .

Subject: The Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Bill, 1946.

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 19th July 1946 and the 13th September 1946 respectively, I am directed to state, for the information of the Hon'ble the Speaker / Council that, as the provisions of clause 3 of the Bill are repugnant to the provisions of section 6 of the Prevention of Cruelty to Animals Act, 1890, which is an existing Indian law relating to entry 22 in the said List III, it will be necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935, His Excellency the Governor is accordingly pleased, under section 75 of the Act, to declare that he reserves the Bill for the consideration of the Governor-General.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.D.Symington

Secretary to the Governor of Bombay.

P.T.O.

Contd.

No.G.S. 3133.

Ganeshkhind, 1st October 1946.

Copy forwarded with compliments to;-

The Secretary to Government, Legal Department, with reference to his letter No.757-L,dated 20th September 1946.

The Secretary to Government, Home Department, with reference to his endorsement, No.2674/4-F dated 29th September 1946.

By order of the Governor of Bombay

sd/-

Secretary to the Governor of Bombay.

17/7-

No.G.S.4182.
Office of the Governor's Secretary,
Government House,
Bombay, 16th November 1946.

From

D.Symington, Esquire, C.I.E.,I.C.S.,
Secretary to the Governor of Bombay.

To

The Secretary to Government,
Legal Department.

Subject:- The Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Bill, 1946.

Sir,

With reference to the correspondence resting with my endorsement No.G.S. 3133, dated the 1st October 1946, on the above subject, I am directed to forward herewith the authentic copy of the Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Bill, 1946, with His Excellency the Governor General's assent signified thereon.

Your obedient servant,

Sd/-

Secretary to the Governor of Bombay.

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To

The Manager, Government Central Press, Bombay (with the Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and the Statement may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).

The Home Department,

*The Oriental Translator to Government,
The Secretary to the Legislative (Bombay Assembly,
) with a copy of the Bill and S.O.R.

*With five extra copies of the Bill.

MM

17/7-

57 to 127

L. A. BILL No. VIII OF 1946.

A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

(As published in the "Bombay Government Gazette" of 13th July 1946.)

XI of 1890. Bom. VI of 1890. Bom. IV of 1902.

WHEREAS it is expedient to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Act, 1946.

Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.

Bom. XIII of 1922. Bom. IX of 1923. Bom. III of 1933. Bom. XI of 1928. XI of 1890.

2. The Prevention of Cruelty to Animals (Bombay Amendment) Act, 1922, the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1923, and the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1933, and the amendments made by these Acts and by the Bombay Repealing and Amending Act, 1928, in the Prevention of Cruelty to Animals Act, 1890 (hereinafter referred to as the principal Act), are hereby repealed.

Amendment of section 6-B of Act XI of 1890.

3. In section 6-B of the principal Act—

(i) in sub-section (*4*), after the words "an animal", the words, brackets and figures "for purposes of examination by the Veterinary Officer referred to in sub-section (*2*) or (*3*), or" shall be inserted;

(ii) for sub-section (*5*), the following shall be substituted, namely :—

"(*5*) (*a*) If, in the case of an animal directed to be destroyed or sent to a *pinjrapole* under sub-section (*2*) the owner refuses or neglects to pay the costs which he is liable to pay under sub-section (*4*), such costs shall be recoverable from him as a fine on the order of a Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such costs should not be recovered;

(*b*) if, in the case of an animal directed to be sent to an infirmary under sub-section (*2*) and certified under sub-section (*3*) to be fit for discharge from the infirmary, the owner refuses or neglects to remove the animal within such time as a Magistrate may prescribe or to pay the costs which he is liable to pay under sub-section (*4*), the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such costs.";

(iii) after sub-section (*6*), the following shall be inserted, namely :—

"(*7*) If the costs payable by the owner under sub-section (*4*) shall exceed the proceeds of such sale, the excess amount to such extent as shall seem reasonable to the Magistrate shall be recoverable from the owner as a fine on the order of the Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such amount should not be recovered."

Amendment of section 11 of Act XI of 1890.

4. In section 11 of the principal Act, after the words "offence to", the words "abandon or" shall be inserted.

Amendment of section 51A of Bom. IV of 1890.

5. In section 51A of the Bombay District Police Act, 1890— Bom. IV of 1890.

(*a*) after the figure "3", the figure and letter "3A" shall be inserted ; and

(*b*) for the word and figure "or 6", the figures, word and letter "6 or 6C" shall be substituted.

Amendment of section 33 of Bom. IV of 1902.

6. In clause (*i*) of section 33 of the City of Bombay Police Act, 1902,— Bom. IV of 1902.

(*a*) after the figure "3" the figure and letter "3A" shall be inserted ; and

(*b*) for the word and figure "or 6" the figures, word and letter "6 or 6C" shall be substituted.

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STATEMENT OF OBJECTS AND REASONS.

The provisions of the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay (hereinafter called the principal Act) have been amended by Bombay Acts XIII of 1922, IX of 1923, XI of 1923 and III of 1933 and in the areas to which the principal Act is extended in this Province these provisions apply as amended by the Bombay Acts referred to above. The Prevention of Cruelty to Animals (Amendment) Act, 1938 (XXV of 1938), has effected certain amendments in the principal Act and not in that Act as amended by the Bombay Acts referred to above. This has resulted in certain anomalies, which are now sought to be removed.

2. Under section 51A of the Bombay District Police Act, 1890, and section 33 (*i*) of the City of Bombay Police Act, 1902, a police officer has been empowered to arrest without an order from a Magistrate and without a warrant any person committing in his presence any offence punishable under section 3, 4, 5 or 6 of the principal Act ; but as offences under sections 3A and 6C of the principal Act are by themselves non-cognizable, the agents of the societies for the prevention of cruelty to animals, who have been appointed Police Officers for the purposes of sections 3, 4, 5 and 6 of the principal Act cannot make arrests in cases falling under the said sections 3A and 6C, unless these sections are also mentioned in section 51A of the Bombay District Police Act, 1890, and in section 33 (*i*) of the City of Bombay Police Act, 1902. The amendment of section 51A of the Bombay District Police Act, 1890, and of section 33 (*i*) of the City of Bombay Police Act, 1902, is intended to provide for making offences under sections 3A and 6C cognizable.

28th June 1946. MORARJI DESAI.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. VIII OF 1946]

(As published in the "Bombay Government Gazette" of 13th July 1946)

A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

[Mr. Morarji R. Desai, M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

No.757-L
Legal Department,
Council Hall, Poona, 20th September 1946.

From
P.H.Hoos, Esquire, C.I.E., I.C.S.,
Secretary to the Government of Bombay.

To
The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to amend the Prevention of Cruelty to Animals Act 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 19th July 1946 and the 13th September 1946 respectively.

2. None of the provisions of the Bill affects any special responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a), (b), (c) or (d) of paragraph XVII of the

Contd.

Instrument of Instructions to the Governor of Bombay.

3. The subject-matter of the Bill falls under entry 22 in List III and entry 3 in List II in the Seventh Schedule to the Government of India Act, 1935.

4. As the provisions of clause 3 are repugnant to the provisions of section 6 of the Prevention of Cruelty to Animals Act, 1890, which is an existing Indian law relating to entry 22 in the said List III, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

5. I am also to forward herewith six copies of each of the items Nos. 1 to 3 and two copies of item No.4 of the papers noted in the margin. The Bill

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1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.) was not referred to a
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.) Select Committee.
3. Bill as read for the third time and passed by the Bombay Legislative Council.
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 19th July 1946 and of the Bombay Legislative Council dated the 13th September 1946.

Contd.

I have the honour to be,

Sir,

Your most obedient servant,

P.N.Moos.

Secretary to the Government of Bombay,

Legal Department.

Through the Secretary to the Government of Bombay,

Home Department.

[redacted]

17/7-

~~Bombay Act No XXVIII of 1958~~

~~L. A. BILL NO. VIII OF 1946.~~

An Act to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

(As read for the third time and passed by the Legislative Assembly on the 19th July, 1946.)

(As read for the third time and passed by the Legislative Council on the 13th September 1946.)

WHEREAS it is expedient to amend the Prevention of XI of 1890. Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, Bom. IV of 1890. 1890, and the City of Bombay Police Act, 1902, for the Bom. V of 1902. purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Act, 1946.

Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.

2. The Prevention of Cruelty to Animals (Bombay Bom. XIII of 1922. Amendment) Act, 1922, the Prevention of Cruelty to Bom. IX of 1923. Animals (Bombay Amendment) Act, 1923, and the Prevention of Cruelty to Animals (Bombay Amendment) Bom. III of 1933. Act, 1933, and the amendments made by these Acts and Bom. XI of 1928. by the Bombay Repealing and Amending Act, 1928, in XI of 1890. the Prevention of Cruelty to Animals Act, 1890 (hereinafter referred to as the principal Act), are hereby repealed.

Amendment of section 6-B of Act XI of 1890.

3. In section 6-B of the principal Act—

(i) in sub-section (*4*), after the words "an animal", the words, brackets and figures "for purposes of examination by the Veterinary Officer referred to in sub-section (*2*) or (*3*), or" shall be inserted;

(ii) for sub-section (*5*), the following shall be substituted, namely :—

"(*5*) (*a*) If, in the case of an animal directed to be destroyed or sent to a *pinjrapole* under sub-section (*2*) the owner refuses or neglects to pay the costs which he is liable to pay under sub-section (*4*), such costs shall be recoverable from him as a fine on the order of a Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such costs should not be recovered;

(*b*) if, in the case of an animal directed to be sent to an infirmary under sub-section (*2*) and certified under sub-section (*3*) to be fit for discharge from the infirmary, the owner refuses or neglects to remove the animal within such time as a Magistrate may prescribe or to pay the costs which he is liable to pay under sub-section (*4*), the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such costs.";

(iii) after sub-section (6), the following shall be inserted, namely :—

"(7) If the costs payable by the owner under sub-section (4) shall exceed the proceeds of such sale, the excess amount to such extent as shall seem reasonable to the Magistrate shall be recoverable from the owner as a fine on the order of the Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such amount should not be recovered."

Amendment of section 11 of Act XI of 1890.

4. In section 11 of the principal Act, after the words "offence to", the words "abandon or" shall be inserted.

Amendment of section 51A of Bom. IV of 1890.

5. In section 51A of the Bombay District Police Act, 1890— Bom. IV of 1890.

(a) after the figure "3", the figure and letter "3A" shall be inserted ; and

(b) for the word and figure "or 6", the figures, word and letter "6 or 6C" shall be substituted.

Amendment of section 33 of Bom. IV of 1902.

6. In clause (i) of section 33 of the City of Bombay Police Act, 1902,— Bom. IV of 1902.

(a) after the figure "3" the figure and letter "3A" shall be inserted ; and

(b) for the word and figure "or 6" the figures, word and letter "6 or 6C" shall be substituted.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. VIII OF 1946]

(As read for the third time and passed by the Legislative Assembly on the 19th July 1946.)

(As read for the third time and passed by the Legislative Council on the 13th September 1946.)

An Act to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

[Mr. MORARJI R. DESAI, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. VIII OF 1946 (A BILL TO AMEND THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890, IN ITS APPLICATION TO THE PROVINCE OF BOMBAY, THE BOMBAY DISTRICT POLICE ACT, 1890, AND THE CITY OF BOMBAY POLICE ACT, 1902).

Mr. MORARJI R. DESAI: Sir, I beg to introduce L. A. Bill No. VIII of 1946 (A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902).*

The Hon. the PRESIDENT: The Bill is introduced.

Mr. MORARJI R. DESAI: Sir, I beg to move that L. A. Bill No. VIII of 1946 (A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902) be read a first time.

Question proposed.

Mr. MORARJI R. DESAI: Sir, the Prevention of Cruelty to Animals Act, 1890, is a Government of India Act, and it falls within the concurrent jurisdiction. That being so, that Act has been amended by several amending Acts of the Bombay Legislature. They were Acts XIII of 1922, IX of 1923, XI of 1928 and III of 1933. Subsequently, this Act was amended by a Government of India Act, which has created several anomalies. In order to remove those anomalies, we now propose in this Bill to delete all the amending Acts of the Bombay Legislature. That is all that is done by this amending Bill. It only makes the present state of affairs straight and proper, so that everybody can understand it.

Sir, that is all that I have to say.

Question put, and agreed to.

Mr. MORARJI R. DESAI: Sir, I beg to move that L. A. Bill No. VIII of 1946 (A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902) be read a second time.

Question put, and agreed to.

Bill read Clause by Clause.

Clauses 1 to 6 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

Mr. MORARJI R. DESAI: Sir, I beg to move that L. A. Bill No. VIII of 1946 (A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902) be read a third time and passed.

Question put, and agreed to.

The Hon. the PRESIDENT: L. A. Bill No. VIII of 1946 (A Bill to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902) is read a third time and passed.

* The Bill was passed by the Legislative Assembly on July 19, 1946.

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BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.